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STAMP (AMENDMENT) ACT, 2010

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No. 13 of 2010

STAMP (AMENDMENT) ACT, 2010

AN ACT TO AMEND THE STAMPACT

[Date of Assent -29th June, 2010]

Enacted by the Parliament of The Bahamas.

1. Short title and commencement.

- (1) This Act, which amends the Stamp Act¹, may be cited as the Stamp (Amendment) Act, 2010.
- (2) This Act shall come into force on the 1st day of July, 2010.

2. Amendment of section 2 of the principal Act.

Section 2 of the principal Act is amended as follows —

- (a) by the repeal of the following words and phrases and their accompanying definitions —
 - (i) “Eurobond”
 - (ii) “value of equity of redemption”
- (b) by the repeal and replacement of the word “consideration” and its definition as follows —

““consideration” means the price that is payable on the sale or transfer of any property or business, or the value of such property or business, whichever is the greater.”;
- (c) by the insertion in the appropriate alphabetical order of the following phrase and definition —

““Foreign currency-denominated debt instruments” means notes, bonds, debentures, or other instruments or certificates of indebtedness or obligation, including contingent indebtedness or obligation —

- (a) denominated in a currency other than Bahamian currency;
- (b) of any maturity whatsoever; and
- (c) offered for issuance outside The Bahamas by a licensed bank in The Bahamas.”;
- (d) by the deletion in the definition of the word “land” of the words “a time share interest or”;
- (e) by the repeal and replacement of the word “mortgage” and its definition as follows —
 - “mortgage” includes any mortgage, whether legal or equitable; a debenture creating a charge, whether fixed or floating; any promissory note made supplemental to or in connection with any mortgage or charge; and any other charge or incumbrance otherwise than a charge created by statute or arising from any order of a court;”;
- (f) by the insertion immediately after subsection (2) of the following subsections —
 - “(3) References in this Act to any court means a court in The Bahamas of competent jurisdiction.
 - (4) The rule of construction that ambiguities in revenue statutes are to be construed in favour of the person liable to pay the duty shall not apply in the interpretation of this Act.”.

3. Amendment of section 3 of the principal Act.

Section 3 of the principal Act is amended —

- (a) by renumbering section 3 as section 3.(1);
- (b) by the deletion of the word “Third” and the substitution of the word “Second”;
- (c) by the deletion of the words “First and Second Schedules” and the substitution of the words “First Schedule”; and
- (d) by the deletion of the words “such Schedules” and the substitution of the words “such Schedule”;
- (e) by the insertion of a new subsection (2) as follows —
 - “(2) Every instrument or transaction shall, notwithstanding the date of execution, be chargeable with the ad valorem duty as fixed by law at the time such instrument or transaction is presented for stamping by the Treasurer.”.

4. Repeal of section 13 of the principal Act.

Section 13 of the principal Act is repealed.

5. Insertion of section 17A into the principal Act.

The principal Act is amended by the insertion immediately after section 17 of the following —

“17A. Temporary waiver of surcharge.

- (1) The Treasurer shall, in respect of an instrument or transaction subject to a surcharge, waive payment of such surcharge where the instrument or transaction is presented for stamping on or before 1st October 2010.
- (2) Notwithstanding subsection (2) of section (3), an instrument or transaction presented for stamping pursuant to subsection (1) shall be chargeable with the ad valorem duty as fixed on the 30th June, 2010.”.

6. Amendment of section 28C of the principal Act.

Section 28 C of the principal Act is amended by the repeal of subsection (5).

7. Insertion of sections 28E and 28F into the principal Act.

Section 28 of the principal Act is amended by the insertion immediately after section 28D of the following sections —

“28E. Sale and transfer of time shares.

Notwithstanding any other law, for the purposes of this Act the sale or transfer of a time share interest shall constitute a sale or transfer of land and accordingly shall be exigible to duty, at the rate applicable to a transfer of realty as set forth in the First Schedule, based on the value of the time share interest.

28F. Dividends-in-specie.

- (1) For the purposes of this Act, a dividend-in-specie, or other transfer or vesting of the beneficial interest in property by a company to or in any of its members, shall constitute a change in beneficial ownership and accordingly shall be exigible to duty in the same manner as if such change in beneficial ownership had occurred in favour of a person who was not a member of the company.
- (2) Subsection (1) shall apply whether the dividend-in-specie or other transfer or vesting of the beneficial interest in property occurs in the course of the winding-up of a company or otherwise.
- (3) Nothing in subsections (1) and (2) shall apply to any instrument or transaction that is otherwise exempt from stamp duty under paragraph 30 of the Third Schedule.”.

8. Amendment of section 29 of the principal Act.

Section 29 of the principal Act is amended in subsection (1) by the deletion of the words "save that in the case of property other than land the stamp duty shall not exceed forty-five dollars".

9. Amendment of section 45 of the principal Act.

Section 45 of the principal Act is repealed and replaced as follows —

"45. Associated entities dealing with sale of businesses:

- (1) Where the sale of any business in The Bahamas is effected by the sale of shares or other equity by or in any privately-held parent of a company incorporated or registered under the Companies Act (*Ch. 308*) or the International Business Companies Act (*Ch. 309*), such sale shall be treated in the same manner as if the business had been sold directly in The Bahamas and accordingly shall, as to both land in The Bahamas and property other than land, be exigible to duty.
- (2) The amount owing in duty in respect of a sale described in subsection (1) shall, until such duty is actually paid, constitute a lien on the business which shall be enforceable at law against the assets comprised in the business.
- (3) The reference in subsection (1) to the sale of any business in The Bahamas shall include the sale of the controlling interest in such business.

10. Repeal of First Schedule to the principal Act.

The First Schedule to the principal Act is repealed.

11. Amendment of Second Schedule to the principal Act.

The Second Schedule to the principal Act is amended as follows —

- (a) by deletion of the word "Second" and the substitution of the word "First";
- (b) in the 'Duty' column, by the deletion —
 - (i) in item 1 of the symbol and numbers "\$3.00" and the substitution of the symbol and numbers "\$10.00";
 - (ii) in items 3, 5, 10, 11, 17 and 18, respectively, of the symbol and numbers "\$4.00" and the substitution of the symbols and numbers "\$10.00";
 - (iii) in items 4, 9, 20, 21, 31 and 34, respectively, of the symbols and numbers "\$6.00" and the substitution of the symbols and numbers "\$10.00";

- (iv) in item 7 of the symbol and numbers "\$5.00" and the substitution of the symbol and numbers "\$10.00";
- (v) in items 12 and 14, respectively, of the words "two", "four", "six", "eight" and "ten" and the substitution of the words "four", "six", "eight", "ten" and "twelve";
- (vi) in item 13 of the word "four" and the substitution of the word "six";
- (vii) in item 16 of the words "one", "two" and "five" and the substitution of the words "two", "three" and "seven" respectively;
- (viii) in item 19 of the symbols and numbers "0.25%" and "\$2,500.00" and the substitution of the symbols and numbers "0.35%" and "\$25,000.00" respectively;
- (ix) in items 28 and 30, respectively, of the symbol and numbers "\$60.00" and the substitution of the symbol and numbers "\$100.00";
- (x) in item 30A of the symbol and numbers "\$3.00" and the substitution of the symbol and numbers "\$5.00";
- (xi) in item 32 of the symbol and numbers "\$2.00" and the substitution of the symbol and numbers "\$5.00";
- (xii) in items 33 and 33A respectively, of the symbol and numbers ".50" and the substitution of the symbol and numbers "\$1.00";
- (xiii) in item 53 of the symbol and numbers ".25" and the substitution of the symbol and numbers ".40";
- (c) in item 14, by the insertion immediately after the word "transfer" of the words "of realty and which"; and
- (d) in item 19, by the deletion in the 'Instrument' column of the word "Eurobond" and the substitution of the phrase "Foreign currency-denominated debt instruments".

12. Amendment of Third Schedule to the principal Act.

The Third Schedule to the principal Act is amended as follows —

- (a) by deletion of the word "Third" and the substitution of the word "Second";
- (b) by the insertion immediately after paragraph 3 of the following new paragraph —
 - "4. Instruments relating to a gift or voluntary disposition of property by an individual to —

- (i) a company all of whose shares of every class are beneficially owned by the transferor; or
 - (ii) trustees upon trust for a class of persons where such class of persons is unalterably limited to the transferor, his spouse and or his children or grandchildren.”;
- (c) by the insertion immediately after paragraph 25 of the following new paragraph —
- “26. import entries in respect of wine normally used by churches in the conduct of communion or equivalent services;
- (d) by the deletion of existing paragraphs 26, 27, 28 and 34 respectively; and
- (e) by the re-numbering of existing paragraphs 4 through 39 as appropriate.

13. Replacement of references to Schedules in the principal Act.

The principal Act is amended by the deletion and or substitution of the following words wherever they appear in the Act —

- (a) deletion of the words “First Schedule”;
- (b) deletion of the words “Second Schedule” and substitution of the words “First Schedule”;
- (c) deletion of the words “Third Schedule” and substitution of the words “Second Schedule”.